IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Crl.MC.No. 2748 of 2007()

CRIME NO.123/2007 OF MELUKAVU POLICE STATION, KOTTAYAM DISTRICT

PETITIONER:

MRS. P. TAMIL SELVI, W/O.PARAMESHKUMAR,
PATEL BUILDING, OPP.TO JAMIA MASJID,KODDGI
THIRUMALLPURA, HASSARGHATTA, HOBLI BANGALORE,
KARNATAKA STATE REPRESENTED BY HER POWER OF
ATTORNEY HOLDER MR.G.ASHOK,S/O. C. GOVINDASAMY,
RESIDING AT MANIN ROAD,PERUNDURAI ERODE DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY
S.I. OF POLICE, MELUKAVU POLICE STATION,
KOTTAYAM DISTRICT REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. THE ASST. EXCISE COMMISSIONER, KOTTAYAM,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERANAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2748 of 2007

Dated this the 24th day of September, 2007

O R D E R

This petition under Section 482 Cr.P.C has been filed by the petitioner, who is the owner of a contract carriage. The said vehicle was seized by the police on the allegation that contraband liquor was present in the vehicle. Seizure was reported to the learned Magistrate. The vehicle was produced before the excise officials for initiating proceedings under Section 67 B of the Kerala Abkari Act. As the vehicle was remaining unnecessarily in the custody of the officials, an application was filed before the learned Magistrate for release of the vehicle under Section 457 Cr.P.C. The learned Magistrate by the impugned order rejected the application on the ground that proceedings under Section 67 B of the Kerala Abkari Act is being initiated. The petitioner came to this Court with this application on 30.08.07. The case was posted to 31.08.07, 07.09.07, 11.09.07 and 12.09.07. As the learned Public Prosecutor had not obtained instructions, the following interim direction was issued on 12.09.07. The vehicle has been released also thereafter.

"Learned P.P prays for time to take instructions.

There shall be a direction that the vehicle in question shall be released to the petitioner in whom so ever custody

it be, on condition that the petitioner executes a bond for Rs.15 lakhs with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. Call on 20.09.07."

2. The learned Public Prosecutor now submits that action under Section 67 B of the Kerala Abkari Act has already been initiated. The learned Public Prosecutor points out that the actual value of the vehicle is Rs.35 lakhs and that the vehicle has been released to the petitioner. The bond is not sufficient. The learned Public Prosecutor further submits that there may be a specific direction that the petitioner must if so directed produce the vehicle before the excise officials in pursuance of a final order if any that may be passed under Section 67 B of the Kerala Abkari Act. The learned Public Prosecutor also submits that it is not sufficient if a bond is insisted and he prays that bank guarantee may also be insisted by this Court.

3. I have considered all the relevant inputs. I take note of the nature of the allegations raised. I take note of the fact that already the vehicle is in the possession of the petitioner on the strength of a bond executed by him. I am satisfied that this Crl.M.C can be finally disposed of by issuing appropriate further directions regarding release of the vehicle.

4. In the result, this Crl.M.C is allowed. The petitioner shall be permitted to continue to keep her vehicle in her possession subject to the following terms and conditions.

i) The petitioner shall execute a fresh bond for Rs.35 lakhs with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate within a period of 3 weeks from this date;

ii) In the bond, the petitioner shall specifically undertake to produce the vehicle before the learned Magistrate or before any other authority as may be directed by the learned Magistrate. It shall also be specifically undertaken that the vehicle shall be produced before the authorities under Section 67 B of the Kerala Abkari Act, if so directed in the final order to be passed under Section 67 B of the Kerala Abkari Act.

(R.BASANT, JUDGE)

rtr/-